

# PPACA State Implementation Update: Exchanges, Expansions and Insurance Reforms



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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March 13, 2013**



# ACA - Key Medicaid Eligibility Provisions

- o Establishes national minimum eligibility standard at 133% of the federal poverty level (FPL) and applies a 5% income disregard, setting the actual minimum eligibility level at 138% of FPL
  - Eliminates the use of other income disregards and the assets test
- o Adds new mandatory eligibility categories
  - Able-bodied, single, childless, non-pregnant adults under age 65;
  - parents; and
  - former foster care children under age 26
- o Changes the methodology for determining income-eligibility to Modified Adjusted Gross Income (MAGI), effective January 1, 2014







## What is MAGI?

- o **Modified Adjusted Gross Income** – An individual's (or couple's) total income plus tax exempt interest and foreign-earned income, which is excluded from the calculation of adjusted gross income (AGI)
- o **MAGI Exceptions** – Groups eligible for Medicaid through other federal programs (e.g. foster care, Supplemental Security Income (SSI), Medicare Savings Programs)
- o **Application of MAGI** – The change to MAGI will not apply to Medicaid beneficiaries who were enrolled in Medicaid on January 1, 2014 until the later of March 31, 2014 or their next redetermination date.





# Medicaid Expansion Post SCOTUS Decision

## o **SCOTUS Game-Changer Decision**

- **No penalty.....No deadline ....States can go in and out of the expansion at will**
- If a state decides not to implement the Medicaid expansion, what happens?
  - o Individuals with income above 100% of FPL are eligible to enroll in the state's health insurance exchange
  - o **Individuals with income below 100% of FPL are not eligible for Medicaid and are not eligible to enroll in the state's exchange**
    - o These individuals will not be subject to the non-coverage penalty provided for under the ACA individual mandate provisions (affordability or hardship exemption)







# Medicaid Important Element of ACA Financing

- o **Coverage provisions work in concert:**
  - **Individual Mandate** (almost everybody is required to obtain coverage)
  - **American Health Insurance Exchange**
    - o Individual Market – **premium and cost-sharing subsidies** to individuals with income between 133% FPL – 400% FPL
    - o Small Business Opportunity Program (SHOP) – tax credits to small businesses
  - **Large Employers “Employer Responsibility Provisions”** encourage large employers to continue to provide coverage at a reasonable cost. Assesses a penalty if an employer has employees participating in the health insurance exchange because their premiums were more than 9.5 % of the employee’s income and the employee was not eligible for Medicaid
  - **Medicaid Expansion** (cost estimates based on **mandatory** expansion)





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# The Fiscal Cliff.....







# Deficit Reduction/Medicaid Reform

- o Looming fiscal cliff hangs over all Medicaid decisions....
- o Key Issues:
  - Deficit Reduction Proposals that Impact Medicaid
    - o Reductions in Provider Taxes and other financing options
    - o Disproportionate Share Hospital (DHS) Reductions
    - o ~~Blended Matching Rate (Medicaid, CHIP)~~
    - o Medicaid Block Grants/Caps/Other Major Reforms
  - Reductions in Federal Discretionary Health Programs/Other Programs
  - Recession/Economic Downturn





## Other Uncertainties

- o Continued court challenges to various ACA provisions
- o Congressional attempts to end/reduce funding for various provisions of the ACA
- o So many moving parts.....so little time.....
- o While the picture regarding exchanges is coming into focus (state-based, Partnership or Federally-facilitated), the Medicaid expansion picture is hazy
- o **Will states receive expanded options with respect to the Medicaid expansion or will it be all or nothing????**







# State Response to Medicaid Expansion

## o Dive In – The Water's Great!

- A few states have taken the dive.
- Many of these states had substantially expanded their Medicaid programs prior to the enactment of the ACA.







# State Response to Medicaid Expansion

## o **Just Wetting My Feet**

- Most states continue to study their options, weighing costs and benefits and seeking the counsel of a variety of experts.
- States are also seeking the counsel of businesses, providers and the community.







# State Response to Medicaid Expansion

## o **What's So Great about the Water? I Like the Feel of Sand on My Feet!**

- A number of states are planted firmly on the beach for now





# State Responses to Medicaid Expansion

## o **Forget the beach.....**

- Arkansas
- Indiana
- Florida
- Wisconsin

## o Premium Assistance — Old idea catching fire!







# Medicaid Expansion/Premium Assistance

- o Premium Assistance is an existing authority in both Medicaid and the Children's Health Insurance Program (CHIP). In a recent proposed rule HHS:
  - Observes that premium assistance **can** provide an option for states to assist families who wish to enroll in the same group health plan when some members of the family are eligible for Medicaid and/or CHIP and other family members are eligible for advanced payments of the premium tax credit (PPTC).
  - Proposes to authorize premium assistance to support the enrollment of individuals eligible for Medicaid and CHIP in plans in the individual market, including enrollment in Qualified Health Plans (QHPs) in the exchange.

**Source:** Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost-Sharing; Proposed Rule (*Federal Register*, January 22, 2013, "Premium Assistance (§435.1015), pp. 4624-4625.





# Insurance Market Reforms

- o States continue to review existing state insurance laws and regulations for conformity with the insurance market reforms included in the ACA.
- o HHS continues to further define many of the market reforms in regulations.
- o It is likely that HHS will, in the short term, enforce many of the new market reforms, unless state insurance commissioners have sufficient regulatory authority to enforce the new federal laws.







# Insurance Market Reforms - Now

- o Temporary high-risk pools
- o Minimum medical loss ratios
- o Prohibition on rescissions (exception for fraud)
- o Extension of dependent coverage for young adults (expires at the 26<sup>th</sup> birthday)
- o Limits preexisting condition exclusions for children
- o Limits lifetime and/or annual caps
- o Reinsurance for early retirees (applies to state and local government plans)





# Insurance Market Reforms – Coming in 2014

- o Prohibits preexisting condition exclusions
- o Requires Guaranteed issue/Guaranteed renewal
- o Premium rating rules
- o Non-discrimination in benefits
- o Mental health and substance abuse services parity
- o Prohibits discrimination based on health status
- o Prohibits annual and lifetime caps







# Individual Responsibility

- o Requires individuals to maintain minimum essential coverage beginning in 2014.
- o **Penalties for Failure to Maintain Coverage**
  - Failure to maintain coverage will result in a penalty that is the greater of a flat fee \$95 in 2014; \$325 in 2015; and \$695 in 2016 OR the following percent of the excess household income above the threshold amount required to file a tax return----1% of income in 2014; 2% of income in 2015; 2.5% of income in 2016 and subsequent years.
  - For those under the age of 18, the applicable penalty will be one-half of the amounts listed above.
  - Families will pay half the amount for children up to a cap of \$2,250 for the entire family.
  - After 2016, dollar amounts will increase by the annual cost of living adjustment.





# Individual Responsibility

- o **Exceptions to the individual responsibility requirement to maintain minimum essential coverage are made for:**
  - religious objectors;
  - individuals not lawfully present; and
  - incarcerated individuals.
- o **Exemptions from the penalty will be made for those who:**
  - cannot afford coverage (where the lowest cost premium available exceeds 8% of income) , thereby qualifying for a “hardship waiver”;
  - taxpayers with income under 100 percent of the federal poverty level;
  - members of Indian tribes; and
  - individuals who were not covered for a period of less than three months during the year.







# Employer Responsibility

## o **Penalties for Failure to Provide Coverage**

- If an employer with more than 50 full-time equivalent employees fails to offer the employee and his/her dependents minimum essential coverage and has at least one full-time equivalent employee receiving the premium assistance tax credit in a state exchange, the employer is required to make a payment of \$2000 per full-time equivalent employee. Excludes/disregards the first 30 full-time employees.
- If an employer with more than 50 full-time equivalent employees offers coverage, but it is unaffordable (greater than 9.5% of the employee's income) or fails to meet the minimum value test and has at least one full-time equivalent employee receiving the premium assistance tax credit from a state exchange, the employer is required to make a payment of \$3000 per full-time equivalent employee. Excludes/disregards the first 30 full-time employees.

## o **Treatment of Large Employers with Waiting Periods**

- A large employer requiring a waiting period of longer than 60 days before an employee may enroll in coverage will pay a fine of \$600 per full-time equivalent employee.





# Key Dates

## o April

- Final Eligibility Rule
- Issuers submit Qualified Health Plan (QHP) Rating and Benefit Data for Exchanges
- Single Streamlined Application – Final

## o June

- Web Re-launch and Call Center Launch

## o July

- Final QHP Evaluation Results Received and Data Finalized
- State Insurance Departments Approval of QHPs
- State Partnership Review of QHPs Completed







## Key Dates cont.

- o July cont.
  - Navigator Portal Available
- o August
  - QHP Plan Preview for HHS and Partnership Exchanges
  - Navigator and Agent/Broker Training Complete
- o September
  - IT Development and Integration Testing Complete
- o October
  - **HEALTH INSURANCE EXCHANGE/MARKETPLACE ENROLLMENT BEGINS**



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